

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DUANE ALAN SMITH,)	
)	
Petitioner,)	
)	
vs.)	Case No. 05-3332-CV-S-GAF
)	
JOSEPH T. GUNJA, Warden,)	
United States Medical Center for)	
Federal Prisoners,)	
)	
Respondent.)	

ORDER

Now pending before the Court is petitioner's Petition for a Writ of Habeas Corpus. On October 3, 2006, Chief United States Magistrate Judge James C. England issued his Report and Recommendation.

Upon careful and independent review of the pending Petition, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of Chief United States Magistrate Judge James C. England.

Accordingly, it is hereby ORDERED that Petitioner is denied leave to proceed in forma pauperis and the Petition for a Writ of Habeas Corpus is dismissed without prejudice.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: October 5, 2006